

Mr. SPEAKER.—The question is :

“That the Mysore Appropriation (No. 3) Bill, 1952, be taken into consideration.”

The motion was adopted.

Mr. SPEAKER.—Clauses. Clauses 2 and 3. The question is :

“That Clauses 2 and 3 stand part of the Bill.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Mr. SPEAKER.—Schedule. The question is :

“That the Schedule stands part of the Bill.”

The motion was adopted.

The Schedule was added to the Bill.

Mr. SPEAKER.—Clause 1. The question is :

“That Clause 1 stands part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

Mr. SPEAKER.—Title and Preamble. The question is :

“That the Title and the Preamble stand part of the Bill.”

The motion was adopted.

The Title and the Preamble were added to the Bill.

Motion to pass.

Sri K. HANUMANTHAIA.—Sir, I move :

“That the Mysore Appropriation (No. 3) Bill, 1952, be passed.”

Mr. SPEAKER.—The question is :

“That the Mysore Appropriation (No. 3) Bill, 1952, be passed.”

The motion was adopted.

Discussion on Question *re* : Application of the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952.

Mr. SPEAKER.—We shall now take up the question raised by Sri J. Mohamed Imam, arising from Question No. 376.

*Sri J. MOHAMED IMAM (Jagalur).—Sir, I think that in the history of Mysore this is the first time that a point arising out of an answer given by the Government to a question is being discussed and now we find what a wholesome rule, Rule No. 39 of the Rules of Business, is.

Sri H. SIDDAVEERAPPA (Minister for Home Affairs and Agriculture).—There was a similar occasion.

Sri J. MOHAMED IMAM.—In this House I am saying. I must thank the Government for having agreed to participate in this debate, and also the Speaker. Question 376 aims at one important privilege that has been conferred on the people of India by an Act of Parliament known as The Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, which was passed in the year 1952. Prior to the passing of this Act there was a relevant article in the Constitution itself which reads as follows and that article is article 286 (3) of the Constitution ;

“No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.”

This provision has been made in the Constitution itself wherein power has been taken by the President whether to allow the imposition of taxes, either it be Sales Tax or Purchase Tax, on such of the articles which have been considered necessary for human life and human community. This clause which is provided in the Constitution is mandatory and applies to the whole

of India and any other law passed by any State which is repugnant will not have any effect and cannot be given effect to because the Constitution applies to the whole of India and no State can go against this law either in spirit or in letter. Afterwards, another Act was passed recently in the year 1952 to confirm this. Let me first read the object of this Act :

“ A list of goods essential for the life of the community for the purpose of the abovementioned provisions has accordingly been drawn up and the Act provides that the imposition, after the enactment of the Act, of a sales or purchase tax on these goods should be reserved for the consideration of the President. The Act helps to achieve a certain measure of uniformity in the taxes, and also prevents essential goods being unduly taxed.”

So the object of this Act is mostly to achieve uniformity throughout India and secondly to prevent essential goods being unduly taxed. So these are the two main objects with which these two Acts have been passed. So the second Act is only a clarification of the Article provided in the Constitution. In reply to my question, Government have put a very ingenious construction.

Sri Kadidal MANJAPPA (Minister for Revenue and Public Works).—Why ?

Sri J. MOHAMED IMAM.—They have made a distinction as to the articles that were exempted from taxation before the passing of this Act and the articles that have to be exempted after the passing of this Act. But according to the Statement of Objects, it is contemplated there that the imposition or even the continuance of a tax is repugnant to the Constitution. Simply because some articles were not declared to be essential before this Act was passed, you cannot say that this Article has no retrospective effect. Because, if we apply this rule then it will be repugnant to an Act passed by the Parliament. Sir, we must take the spirit of the law and the spirit of the Constitution. We must take an

equitable view. The spirit of the Constitution is that in the interest of the people such of the articles as are essential for human life and for the community must be exempted from any kind of taxation. We must take the clause provided in the Constitution itself which is mandatory. No law can go against the spirit of the Constitution. In the interest of the community certain articles must be exempted from the imposition of tax. That is the object of the Constitution. According to that, fifteen articles have been exempted in the Act whereas the Government of Mysore have given exemption to only five articles. I will read out the articles that have been exempted from taxation :

“ 1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).

2. Fresh and dried fruits, sugar-cane, cocoanuts, vegetables, edible tubers, vegetable and flower seeds, bulbs and plants, excluding orchids (except (i) any medicine prepared from any one or more of such articles; and (ii) when any such article is sold in sealed containers).

3. Fresh milk, whole or separate, and milk products including butter, ghee, chana, koa, but excluding sweetmeats.

4. Meat, fish and eggs (except when any such article is sold in sealed containers).

5. Edible oils, and oilseeds from which edible oils are extracted.

6. Gur.

7. Salt.

8. All cloth, woven on hand-looms, coarse and medium cotton cloth made in mills or woven on power-looms.

Explanation 1.—‘ Coarse cloth ’ means any cloth in which the count of warp yarn employed (excluding the border) is below 17s. (whether single or folded).

Explanation 2.—‘ Medium cloth ’ means any cloth in which

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the count of warp yarn employed (excluding the border) is 17s. or finer but is less than 35s. (whether single or folded).

9. Raw cotton, including ginned and unginned cotton or kapas, cotton thread, cotton yarn, cotton seeds, jute seeds, raw jute, sun-hemp, and mesta.

10. Hides and skins.

11. Fertilisers and manures, agricultural machinery and implements, including parts of such machinery and implements.

12. Cattle feeds.

13. Coal including coke and other derivatives, petroleum and petroleum products, including kerosene and motor spirit.

14. Iron and Steel.

15. Books, exercise books, slates and slate pencils and periodical journals."

On the other hand the State has given exemption only to six articles. These are :

"1. All cereals and pulses including all forms of rice.

2. Flour including atta, maida and bran.

3. Salt.

4. Text-books approved by the Director of Public Instruction."

I do not know why the Director of Public Instruction must come in here.

"5. Cotton.

6. Cloth woven on hand-loom exclusively out of hand spun yarn—subject to license conditions."

We find from this Article, that no other articles which have been declared to be essential under this Act have been exempted from Sales Tax which is unfair and not at all justifiable. As I said, under the Constitution, and under this Declaration of Essential Goods Act, all these articles must be exempted from taxation. Perhaps the Government want to take shelter under this clause :

"No law made after the commencement of this Act by the Legislature of a State imposing, or authorising the imposition of Tax on the sale or purchase of any goods

declared by this Act to be essential for the life of the community, shall have effect unless it has been reserved for the consideration of President and has received his assent."

On the strength of this clause, perhaps the Government takes a stand that it has no retrospective effect and it has got only prospective effect. From this interpretation I beg to differ. The interpretation of this clause is this : not only those articles that were declared to be exempt from taxation but also those articles that were not declared previously to be exempt from the tax cannot continue to be taxed. It is true you might have imposed that tax before the passing of this Act, on a few articles. Now you may say that this Act does not apply to us because we passed the Sales Tax Act long ago. But I submit that even if you have levied the tax before the passing of this Act, that imposition of tax will not continue and cannot continue when this Act is repugnant to an Act passed by the Parliament of India. Take the spirit—what is the spirit of the Act that has been passed and what is the spirit of the clause that has been provided under the Constitution? That is to exempt from levy of tax those articles in the interest of humanity. But if you interpret that it has no retrospective effect and only prospective effect, then you will be going against the spirit of the Constitution and against the spirit of the Act. Again Sir, you admit that your Sales Tax Act imposing the taxes on these articles, is repugnant to this Act. Assuming for the moment that the State Act and the Parliament Act are conflicting and the State Act is repugnant to an Act passed by the Parliament, I would refer the Government to Article 251 of the Constitution.

Sri Kadidal MANJAPPA.—There is no inconsistency between this Act and that Act.

Sri J. MOHAMED IMAM.—Under the Constitution itself, all these articles are exempt.

Sri Kadidal MANJAPPA.—No ; not under the Constitution but under the declaration made by the Constitution.

Sri J. MOHAMED IMAM.—There are people who will take the matter to the High Court.

Now Sir, Parliament has passed a certain Act called the Essential Goods Declaration and Regulation of Tax on sale or purchase Act. The State of Mysore has passed its own law and according to the Government of Mysore, they say that the Act passed by the Parliament does not apply to them. Under Article 251 of the Constitution, the Act passed by the Parliament must be given preference and it lays down :

“if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.”

I think it is quite clear from the above that the Law made by you becomes obsolete. Nothing in Articles 249 and 250 of the Constitution shall restrict the State to make any law, but if any provision of a law made by the Legislature of the State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail and the law made by the Legislature of the State shall to the extent of the repugnancy but so long only as the law made by Parliament continues, to have effect be inoperative.

So the law made by you is absolutely inoperative in the face of the Act made by the Parliament.

Sri Kadidal MANJAPPA.—You are reading a provision which relates to the matter of Emergency.

Sri J. MOHAMED IMAM.—It is a general provision.

So I submit Sir, even assuming that the interpretation put by the Government is correct that it has no retrospective effect, I submit that the law passed by the State of Mysore is repugnant to the Law passed by the Parliament. As such, the State Act becomes inoperative. On these grounds, I submit to the Government that there is a very good case to exempt all these articles which are considered as essential, from taxation. And according to Law they must be submitted to the President for his assent.

Apart from this, from the humane point of view, Sales Tax was opposed by several sections of the community when it was passed. When it came before this House, it was opposed by all those Members who were interested in the uplift of the country at that time. The Government gave an assurance that, so far as Essential Articles for the use of consumption of the people, were concerned they unequivocally stated they would defer the measure. But the promise made by the Government was not kept up. They have not acted according to their promise. They have given exemption only for 6 articles. When the Government of India declared that 15 items of articles are quite necessary for human life and when they themselves have directed you to give exemption, then it is your duty to carry out that mandate. Otherwise, you will be acting against the Constitution. You will be considered, I may be excused if I may say, that you are not being loyal to the Constitution. Take the case of the neighbouring State, for example Bombay and other States; Bombay has given exemption to all these articles, Madras may also follow suit.

Sri Kadidal MANJAPPA.—Even the food articles are subject to levy of taxation at Madras.

Sri J. MOHAMED IMAM.—Mysore is considered to be a progressive State till now. They have always been very sympathetic and considerate towards the aspirations of the people. We should not tax the common man. All these articles are used by the poor man, common man and by agriculturists. It is your duty to give

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exemption and you should not take shelter under ingenious interpretations. So it is equitable and just that the Government exempt all these articles in pursuance of the directions given by the Parliament and by the Constitution. They must follow the example of Bombay. When the neighbouring State has exempted all the articles, it is your duty also to give exemption. But if the Government does not comply with it, then I must say that they are not sympathetic towards the people and they do not want to relieve the difficulties and distress of the people. So, this is the statement that I am making. It will have a salutary effect. Take a sympathetic view and give exemption to all these 15 items of articles as provided in the Act.

Sri Kadidal MANJAPPA.—Mr. Speaker, Sir, Sri J. Mohamed Imam is no doubt a Law Graduate.

Mr. SPEAKER.—Just wait.

(Sri B. RACHIAH, rose).

Mr. SPEAKER.—If the Member has previously intimated to the Speaker and obtained permission to speak, then alone he can speak. Sri Rachiah was not in his seat. As a special case he can go on.

ಶ್ರೀ ಬಿ. ರಾಚಯ್ಯ (ಯಳಂದೂರು ಅಸೆಂಬಲಿ ಜಾತಿಗಳು).—ಜನ ಜೀವನಕ್ಕೆ ಬೇಕಾಗಿರುವ ಅತ್ಯವಶ್ಯಕ ವಸ್ತುಗಳ ಮಾರಾಟದ ಬಗ್ಗೆ ವಿಧಿಸಲಾಗುತ್ತಿರುವ ಮಾರಾಟ ತೆರಿಗೆಯನ್ನು ತಪ್ಪಿಸತಕ್ಕ ಬಗ್ಗೆ ಎಸೆಷಿಯಲ್ ಗುಡ್ಸ್ ಆಕ್ಟ್ ಪ್ರಕಾರ ಇಲ್ಲಿಯವರೆಗೆ ನಮ್ಮ ಸರ್ಕಾರದವರು ಕೈಕೊಂಡಿರುವ ಕಾರ್ಯ ಕ್ರಮಗಳೇನು?

ಶ್ರೀ ಕಡಿದಾಳ್ ಮಂಜಪ್ಪ.—ಕಾನೂನು ಪ್ರಕಾರ ಈ ಎಸೆಷಿಯಲ್ ಗುಡ್ಸ್ ಆಕ್ಟ್ ಜಾರಿಗೆ ಬರುವ ಮುನ್ನ ಏನು ತೆರಿಗೆಯನ್ನು ಆ ವಸ್ತುಗಳ ಮೇಲೆ ಹಾಕಲಾಗಿತ್ತೋ ಈಗಲೂ ಅದೇ ಜಾರಿಯಲ್ಲಿದೆ.

ಶ್ರೀ ಬಿ. ರಾಚಯ್ಯ.—ಬೊಂಬಾಯಿ ಸರ್ಕಾರದವರು ಈ ಎಸೆಷಿಯಲ್ ಗುಡ್ಸ್ ಗಳ ಮೇಲೆ ಹಾಕುತ್ತಿದ್ದ ಮಾರಾಟತೆರಿಗೆಯನ್ನು ತಪ್ಪಿಸಿರತಕ್ಕ ವಿಚಾರ ತಮ್ಮ ಗವನಕ್ಕೆ ಬಂದಿದೆಯೇ?

ಶ್ರೀ ಕಡಿದಾಳ್ ಮಂಜಪ್ಪ.—ಒಂದೊಂದು ಕಡೆ ಅದು ಒಂದೊಂದು ರೀತಿಯಾಗಿದೆ. ಮದ್ರಾಸಿನಲ್ಲಿ ಆಹಾರ ವಸ್ತುಗಳ ಮೇಲೂ ಮಾರಾಟ ತೆರಿಗೆಯನ್ನು ವಿಧಿಸಲಾಗುತ್ತಿದೆ. ಸಾಮಾನ್ಯವಾಗಿ ಮಾರಾಟ ಮಾಡಲಾಗುತ್ತಿರುವ ಕೆಲವು ವಸ್ತುಗಳ ಮೇಲೆ ಮಾತ್ರ ನಾವು ಇಲ್ಲಿ ಕಾನೂನು ಪ್ರಕಾರ ಸಿಂಗಲ್ ಪಾಯಿಂಟ್ ತೆರಿಗೆ ವಸೂಲ ಮಾಡುತ್ತಿದ್ದೇವೆ.

ಶ್ರೀ ಬಿ. ರಾಚಯ್ಯ.—ಇದನ್ನು ಮನ್ನಾ ಮಾಡುವುದಕ್ಕಾಗುವುದಿಲ್ಲವೇ?

ಶ್ರೀ ಕಡಿದಾಳ್ ಮಂಜಪ್ಪ.—ಆ ಪ್ರಶ್ನೆ ಆಯಾ ದೇಶದ ಆರ್ಥಿಕ ಪರಿಸ್ಥಿತಿಯನ್ನನುಸರಿಸಿರುತ್ತದೆ.

Sir, Sri Imam is no doubt a Law Graduate but by the way in which he argued his case, I am driven to the conclusion that he has not practised Law at any time.

Sri J. MOHAMED IMAM.—I only do chambers practice. (Laughter!)

Sri Kadidal MANJAPPA.—On the question of law Sir, there is no difference of opinion. The law is clear and there is no inconsistency between the Law in force in Mysore and the Central Act referred to by the Hon'ble Member. No doubt, Article 286 of the Constitution lays down that no law made by the Legislature of a State imposing or authorising imposition of the tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community, shall have effect. So this Article is subject to the provisions of the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952. Now I will read for the benefit of my Hon'ble friend the relevant portion of the Act.

Section 3 of the Act reads as follows :—

3. "*Regulation of tax on sales or purchase of essential goods.*—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of a tax on the sale or purchase of any goods declared by this Act to be

essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent."

The intention of the Parliament is that it should be prospective and not retrospective. So I would lay stress upon this "*After the commencement of this Act* by the Legislature of a State imposing or authorising the imposition of a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community". Therefore, if the intention of the Parliament was that exemption should be given to all these articles, there was no necessity to put these words "*after the commencement of this Act*". Therefore the intention is clear. The Act is to prevent States from legislating after the commencement of this Act in the matter of levying Sales Tax on these essential articles mentioned in the Schedule.

Sri A. BHEEMAPPA NAIK (Molakalmuru).—You will be forced to have uniformity.

Sri Kadidal MANJAPPA.—There is no question of uniformity in these matters. Sales tax is not a Central subject; it is a State subject. So the Centre, except under Article 286, has no powers to legislate regarding Sales Tax.

Recently, in the Finance Ministers Conference, this matter was discussed. The unanimous opinion of all the Ministers of all the States was that they should not aim at uniformity in the matter of Sales Tax. Because the conditions vary from State to State.

Sri Mulka GOVINDA REDDY (Chitaldrug).—You are contradicting Sri Rajagopalachari's statement.

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Sri Kadidal MANJAPPA.—That is a subsequent statement which I have read to-day. But that was the uniform decision in the conference.

Coming to the list of exemptions that is in force in Mysore, I submit that we in Mysore have exempted essential articles that are being used by the poor people; we have exempted agricultural and horticultural produce

grown by the grower, goods which under the Mysore Excise Act are not subject to sales tax. Cotton, hand-spun yarn, cloth woven on handlooms by persons not dealing in cloth of any other description are not subject to sales tax but are subject to licence under section 12. Salt is not subject to sales tax. All cereals, pulses including all sorts of rice are exempted from the levy of sales tax. Atta, maida and soji are exempted; text-books, slates, pencils and exercise and drawing books are exempted. Canteen stores passed by the Government of India to the Canteen contractors are exempted. Medical Practitioners owning dispensaries and dispensing medicines are exempted from the payment of sales tax. Raw wool is subject to license under section 5. Bullock-carts are exempted from sales tax. Druggets are subject to license under section 5. Electric energy is exempted. Filature silk and charka silk are exempted. Dealers in these articles are required to take a license under section 12. Newspapers are exempted. Mutton, eggs, fruits and other things are subject to sales tax at slab rates.

There are certain other articles on which sales tax is levied at single point. Mill textiles, powerloom textiles, cigarettes, beedies and cheroots are all subject to the levy of sales tax at single point. Kerosene oil, hides and skins, cotton yarn other than handspun yarn, silk grown by the use of machinery, spun silk, gold thread, bullion, cloth woven on handlooms are several of the articles which are subjected to sales tax at single point. I once again make it clear that in Mysore the common man is not hit hard on account of the levy of sales tax. It is only merchants that make much of the sales tax. So far as the consumers are concerned, the sales tax is a flea bite to them.

Sri J. MOHAMED IMAM.—That is your opinion, because you come from Malnad.

Sri Kadidal MANJAPPA.—You might have observed that the complaints are always from the merchants and not from the consumers. It is the consumer that pays the tax, I admit. Strictly speaking, it is a turnover tax.

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It is the merchant's liability to pay tax, but he collects it from the consumer and ultimately it falls on the consumers, I concede. But as I submitted already, it is a flea bite to the consumer and the common man is not hit hard, because on several essential articles sales tax is not levied.

Sri J. MOHAMED IMAM.—So you want a scorpion bite !

Sri Kadidal MANJAPPA.—You all know that Railways and Income-tax have been taken over by the Centre. We have to carry on the administration and I need not say further in this matter. It is an essential tax. No-doubt, I admit certain amount of difficulties are experienced by the petty merchants, but I do not agree that the common man is hit hard on account of the sales tax.

Sri B. HUTCHE GOWDA (Turuvekere).—In Hyderabad and Bombay they are exempted.

Sri Kadidal MANJAPPA.—As I submitted, in Madras, they are levying sales tax even on articles of food.

ಶ್ರೀ ಬಿ. ರಾಜಯ್ಯ.—On a point of information, Sir ; ತಾವು ಸಿಲ್ಕ್ ಡೀಲರುಗಳ ಮೇಲೆ ಸೇಲ್ಸ್ ಟ್ಯಾಕ್ಸ್ ತೆಗೆದಿದ್ದೀರೆಂದು ಹೇಳಿದಿರಿ. ಆದರೆ ಇನ್ನೂ ಟ್ಯಾಕ್ಸ್ collect ಮಾಡುತ್ತಿದ್ದಾರಲ್ಲಾ ?

ಶ್ರೀ ಕಡಿದಾಳ್ ಮಂಜಪ್ಪ.—ಹೌದು, ಅವರುಗಳ ಮೇಲೆ ಸಿಂಗಲ್ ಸಾಯಿಂಟ್ ಟ್ಯಾಕ್ಸ್ ಹಾಕಿದ್ದೇನೆ.

Sri M. SHANKAR LINGE GOWDA.—You show kindness to poor people.

Sri Kadidal MANJAPPA.—Sri Imam said that mine is an ingenious interpretation. It is a correct interpretation. It can be upheld even by the Supreme Court.

Sri M. SHANKAR LINGE GOWDA.—We want kindness.

Sri Kadidal MANJAPPA.—In conclusion, the law in force in Mysore is not in any way repugnant to the Constitution or the Central Act. Under these circumstances, I submit there is no force in the contention of the Leader of the Opposition that the law is repugnant to the Constitution.

Sri L. SIDDAPPA (Chennagiri).—It seems the predecessor Government gave a promise that some of these essential commodities would not be charged.

Sri Kadidal MANJAPPA.—The essential articles are already exempted. Exemption has been given.

Mr. SPEAKER.—The House will now rise for the day and meet at 8-30 a.m. to-morrow. The business of the day will be non-official Bill and also resolutions.

The House adjourned at Ten Minutes past Five of the Clock to meet again at Thirty Minutes past Eight of the Clock on Saturday, 25th October 1952.